

# EXHIBIT D

# Murray, Frank & Sailer LLP

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MURRAY, FRANK & SAILER LLP specializes in class action litigation, particularly in cases involving federal securities law, federal antitrust law, and state consumer protection law.

### SECURITIES FRAUD

Murray, Frank & Sailer LLP, or its predecessor firms Rabin & Peckel LLP and Rabin, Murray & Frank LLP, has been lead or co-lead counsel in securities actions throughout the United States, including the following:

*In re JWP Inc. Securities Litigation* (S.D.N.Y.) (\$40 million); *In re Turkcell Iletisim Hizmetleri A.S. Securities Litigation*. (S.D.N.Y.) (recovery of \$19.2 million); *In re PictureTel Inc. Securities Litigation* (D. Mass.) (\$14 million); *In re Marion Merrell Dow Inc. Securities Litigation* (W.D. Mo.) (\$14 million); *LaVallie v. Owens-Corning Fiberglas Corp.* (N.D. Ohio) (\$10 million); *In re USX Securities Litigation* (W.D.

In the *Playmobil* Case, Murray, Frank & Sailer was co-lead counsel, representing a class of purchasers of Playmobil products. Murray, Frank & Sailer was successful in obtaining

Pa.) (\$9 million); *Miller v. Bonmati* (Del. Ch.) (\$9.9 million); *Feiner v. SS&C Tech., Inc.* (D. Conn.) (\$8.8 million).

### ANTITRUST

The Firm has also represented plaintiffs in federal and state class actions arising out of applicable antitrust laws, including the *Infant Formula*, *Brand Name Pharmaceutical*, *Nasdaq*, *VISA/Master-Card*, *Playmobil*, and *Disposable Contact Lens* cases.

The firm is currently counsel in many cases involving Sherman Act violations including: *In re Time Warner Cable Com.*; *In re American Express*; *In re Linens Antitrust Litig.*; *In re Thomson Corp. Antitrust Litig.*, *In re Hydrogen Peroxide Antitrust Litig.*; and *Slattery v. Apple Computer Inc.*

certification of a plaintiff class in an oft-cited opinion and settling the case on favorable terms to the class. The Court, at the fairness hearing, “compliment[ed] both counsel in the fine job done

negotiating with each other and also the legal work that has been submitted to the Court.” In the *Disposable Contact Lens* case, Murray, Frank & Sailer represented a class of purchasers of disposable contact lenses in California, and eventually obtained reversal in the California appellate courts of a denial of class certification.

### **CONSUMER PROTECTION**

In the consumer protection area, the firm has represented as lead counsel classes of consumers in cases involving, *inter alia*, wrongful billing practices and poor service by wireless communications providers, wrongful billing practices by credit card companies, banks and retailers, mislabeling of imported olive oil, brokerage fees imposed with no or insufficient notice, Medicaid overcharges, faulty automobile seat heaters, and artificial sweeteners. Among its cases of note, the Firm recently recovered benefits worth \$40 million in *Naevus Int'l v. AT&T Corp., et al.*, a consumer class action brought in New York State Supreme Court on behalf of consumers who subscribed to AT&T's Digital One Rate wireless service. In 2005, the firm settled with Volkswagen of America, forcing a recall of all 2003 and 2004 Volkswagen Jettas for faulty automobile seat heaters. The firm is also national counsel in cases against Splenda and Listerine.

### **ERISA**

MFS is prosecuting numerous actions in federal court against employers on behalf of employees for employee investment fund mismanagement; knowingly offering; marketing, and selling improper investments to employees for their retirement accounts; and knowingly misrepresenting the prospects of the employees' company in order to sell company stock to them. The firm is currently co-lead counsel in the *Winn-Dixie Stores, Inc. ERISA Litigation* (S.D. Fla.)

### **THE PARTNERS**

**BRIAN MURRAY**, a partner, was admitted to the Connecticut bar in 1990, to the bars of the New York and the United States District Courts for the Southern and Eastern Districts of New York in 1991, the bars of the Second Circuit in 1997 and the First and Fifth Circuit in 2000. He received B.A. and M.A. degrees from the University of Notre Dame in 1983 and 1986, respectively. He received a J.D. degree, *cum laude*, from St. John's University School of Law in 1990. At St. John's, he was the Articles Editor of the ST. JOHN'S LAW REVIEW. Mr. Murray co-wrote *The Proportionate Trading Model: Real Science or Junk Science?*, 52 CLEVELAND ST. L. REV. 391 (2004-05); *The Accident of Efficiency: Foreign Exchanges, American Depository Receipts, and Space Arbitrage*, 51 BUFFALO L. REV. 383 (2003); *You Shouldn't Be Required To Plead More Than You Have To Prove*, 53 BAYLOR L. REV. 783 (2001); *He Lies, You Die: Criminal Trials, Truth, Perjury, and Fairness*, 27 NEW ENGLAND JOURNAL ON CIVIL AND CRIMINAL CONFINEMENT 1 (2001); *Subject Matter Jurisdiction Under the Federal Securities Laws: The State of Affairs After Itoba*, 20 MARYLAND JOURNAL OF INT'L LAW AND TRADE 235 (1996); *Determining Excessive Trading in Option Accounts: A Synthetic Valuation Approach*, 23 U. DAYTON L. REV. 316 (1997); *Loss Causation Pleading Standard*, NEW YORK LAW JOURNAL (Feb. 25, 2005); *The PSLRA 'Automatic Stay' of Discovery*, NEW YORK

LAW JOURNAL (March 3, 2003); and *Inherent Risk In Securities Cases In The Second Circuit*, NEW YORK LAW JOURNAL (Aug. 26, 2004). He also authored *Lifting the PSLRA "Automatic Stay" of Discovery*, N. DAK. L. REV. 405 (2004); *Aftermarket Purchaser Standing Under § 11 of the Securities Act of 1933*, 73 ST. JOHN' S L. REV. 633 (1999); *Recent Rulings Allow Section 11 Suits By Aftermarket Securities Purchasers*, NEW YORK LAW JOURNAL (September 24, 1998); and Comment, *Weissmann v. Freeman: The Second Circuit Errs in its Analysis of Derivative Copyrights by Joint Authors*, 63 ST. JOHN' S LAW REVIEW 771 (1989).

Mr. Murray' s major cases include *Feiner v. SS&C Tech., Inc.*, 11 F. Supp. 2d 204 (D. Conn. 1998) (qualified independent underwriters held liable for pricing of offering); *Malone v. Microdyne Corp.*, 26 F.3d 471 (4<sup>th</sup> Cir. 1994) (reversal of directed verdict for defendants); and *Adair v. Bristol Tech. Systems, Inc.*, 179 F.R.D. 126 (S.D.N.Y. 1998) (aftermarket purchasers have standing under section 11 of the Securities Act of 1933), in which Judge Sweet stated plaintiffs' counsel were " skilled advocates and negotiators," 1999 WL 1037878, at \*3 (S.D.N.Y. 1999). Mr. Murray also prevailed on an issue of first impression in the Superior Court of Massachusetts, in *Cambridge Biotech Corp. v. Deloitte and Touche LLP*, in which the court applied the doctrine of continuous representation for statute of limitations purposes to accountants for the first time in Massachusetts. 6 Mass. L. Rptr. 367 (Mass. Super. Jan 28, 1997). In addition, in *Adair v. Microfield Graphics, Inc.* (D. Or.), Mr. Murray settled the case for 47% of estimated damages and the Court noted " Plaintiff' s counsel have exhibited a high quality of work in prosecuting this action."

Mr. Murray was a Trustee of the Incorporated Village of Garden City (2000-2002); Commissioner of Recreation for Garden City (2001-2002); Commissioner of Police for Garden City (2000-2001); Member, Sports Law Committee, Association of the Bar for the City of New York, 1994-1997; Member, Federal Bar Counsel; Member, Litigation Committee, Association of the Bar for the City of New York, 2003-.

Mr. Murray has been a panelist at CLEs sponsored by the Federal Bar Council and the Institute for Law and Economic Policy and a panelist at the German-American Lawyers Association Annual Meeting in Frankfurt, Germany.

**MARVIN L. FRANK**, the managing partner, was admitted to the New York, New Jersey, and the United States District Court for the District of New Jersey bars in 1991, to the bars of the United States District Courts for the Southern and Eastern Districts of New York in 1992, to the bars of the Second Circuit in 1998 and

Seventh Circuit in 1999, and to the bar of the United States Supreme Court in 2004. He graduated with a B.A. degree from The City College of New York in 1969, an M.B.A. degree from Bernard M. Baruch College in 1974, and received his J.D. degree, *magna cum laude*, from New York Law School in 1991. At New York Law School, he received the Kaplun Foundation Award For Academic Excellence.

Mr. Frank's major cases include *Miller v. Bonmati*, Del. Ch., C.A. No. 15849, Lamb, V.C. (March 18, 1999), in which the Court stated " I am quite pleased by the work that was done by the plaintiffs' counsel. They seem to have done a very professional job of dealing with a difficult situation and have obtained, from everything I can ascertain from the record in front of me, quite a beneficial settlement that gives an opportunity for this situation to work itself out."; *In re JWP Inc. Securities Litigation* (S.D.N.Y.) (recovery of approximately \$40 million); *In re Marion Merrell Dow Inc. Securities Litigation* (W.D. Mo.) (\$14 million); *In re PictureTel Inc. Securities Litigation* (D. Mass) (\$14 million); *In re ContiFinancial Securities Litigation* (S.D.N.Y.) (\$5.5 million); *In re Quintiles Transnational Securities Litigation* (M.D.N.C.) (\$3 million).

**JACQUELINE SAILER**, a partner, was admitted to the Delaware bar in 1990, to the bar of the United States District Court for the District of Delaware in 1991, to the bars of the State of New York and the United States District Courts for the Southern and Eastern Districts of New York in 1996, to the bars of the United States Court of Appeals for the Sixth Circuit and the United States District Court for the District of Colorado in 1997, to the bar of the United States Court of Appeals for the Second Circuit in 1998, and to the bar of the United States Supreme Court in 2005. She graduated with honors from Smith College with a B.A. degree in 1985. She received a J.D. degree from St. John's University School of Law in 1990. While attending law school, Ms. Sailer interned with the United States Attorneys' Office for the Eastern District of New York and the New York Regional Office of the United States Securities and Exchange Commission. Ms. Sailer is fluent in French and German. She is a member of the Federal Bar Council; member, National Association of Consumer Advocates; and member, Association of the Bar for the City of New York, including the Sex and Law Committee, 1996-1999.

Ms. Sailer was responsible for the recent recovery of \$40 million worth of benefits for a plaintiff class of wireless consumers in a consumer class action, *Naevus Int'l, Inc. v. AT&T Corp.* Her major reported cases as lead counsel include *Naevus Intl., Inc. v. AT&T Corp.*, 713 N.Y.S.2d 642 (Sup. Ct. New York Co. 2000) (establishing limits on the reach of the Federal Communications Act on

state consumer fraud claims), in which she successfully argued against a motion to dismiss on behalf of a class of current and former subscribers to AT&T's wireless service; and a federal securities class action, *Kinney v. Metro Global Media, Inc.*, 170 F. Supp. 2d 173 (D.R.I. 2001) (addressing the pleading standard for fraud under the Private Securities Litigation Reform Act of 1995 for claims against an auditor, an issue of first impression in the District of Rhode Island), in which she successfully argued and opposed an auditor's motion to dismiss claims under Section 10(b) of the Securities Exchange Act of 1934; *Baffa v. Donaldson, Lufkin & Jenrette Securities Corp.*, 999 F. Supp. 725 (S.D.N.Y. 1998) (denying underwriters' motion to dismiss securities fraud claims). At the fairness hearing in *Metro Global*, Judge Lisi expressed an "appreciation for how difficult this case was for all sides, for how hotly contested many of the issues in this case were from the get-go and how reaching a settlement, given all of those considerations, was particularly difficult; so I commend all of you for persevering in the efforts that you made toward reaching a settlement . . . [and] for achieving what I find to be a fair, adequate and reasonable result[.]" Currently Ms. Sailer's case responsibilities include serving as lead counsel and co-chairperson of the executive committee in securities fraud cases brought against Merrill Lynch & Co. based on fraudulent analyst reports, pending in the Southern District of New York.

Ms. Sailer is the co-author of *Loss Causation Pleading Standards*, NEW YORK LAW JOURNAL (Feb. 25, 2005).

**ERIC J. BELFI**, a partner, was admitted to the bars of the State of New York and the United States District Court for the Southern and Eastern Districts of New York in 1996; and the United States District Court of Colorado in 2004. He graduated from Georgetown University with a B.A. degree in 1992 and received a J.D. degree from St. John's University School of Law in 1995. Mr. Belfi co-authored *The Proportionate Trading Model: Real Science or Junk Science?*, 52 CLEVELAND ST. L. REV. 391 (2004-05).

Prior to joining Murray, Frank & Sailer, Mr. Belfi worked as Assistant Attorney General for the State of New York and Assistant District Attorney for the County of Westchester. As a prosecutor, Mr. Belfi investigated and prosecuted numerous white-collar crime cases, including securities violations. Mr. Belfi is an associate prosecutor for the Village of New Hyde Park. He is a member of the Federal Bar Council and the Association of the Bar for the City of New York.

### **THE ASSOCIATES**



**LAWRENCE D. McCABE**, an associate, was admitted to the bars of the State of New York and the United States District Court for the Southern District of New York in 1995, and the bar of the United States District Court for the Eastern District of New York in 2001. Mr. McCabe received a B.A. degree, *cum laude*, from Iona College in 1984. He received his J. D. Degree, *cum laude* from the Fordham University School of Law in 1994. At Fordham, he was a Notes & Articles editor of the Law Review. Upon graduation from Fordham, he was admitted into the Order of the Coif.

Upon graduation from college, Mr. McCabe worked as a securities trader, specializing in NASDAQ securities. After law school, Mr. McCabe practiced commercial litigation with an international law firm. Mr. McCabe has been an active member of the plaintiffs' bar since 2002 where he has focused on class action securities fraud matters.

**GREGORY B. LINKH**, an associate, was admitted to the bars of the State of New York and the United States District Court for the Southern and Eastern Districts of New York in 2000. He graduated from the State University of New York at Binghamton with a B.A. degree in 1996 and received a J.D. degree from the University of Michigan in 1999. Mr. Linkh is the co-author of *Inherent Risk In Securities Cases In The Second Circuit*, NEW YORK LAW JOURNAL (Aug. 26, 2004).

Prior to joining Murray, Frank & Sailer, Mr. Linkh was associated with the law firms Dewey Ballantine LLP and Pomerantz Haudek Block Grossman & Gross LLP.

**BRIDGET V. HAMILL**, an associate, was admitted to the New Jersey bar in 2001 and to the New York bar in 2005. She received a J.D. degree in 2000 from Rutgers School of Law and a B.A. from Douglass College of Rutgers University in 1985. Prior to joining Murray, Frank & Sailer, Ms. Hamill was law clerk to U.S. Magistrate Judge Mark Falk in the District of New Jersey. While attending law school, she was an employee stock options/stock purchase plan administrator in New York City. Prior to entering law school, Ms. Hamill was a health care information systems manager.

**PAUL T. CURLEY**, an associate, was admitted to the bars of the State of New York in 1998 and the United States District Court for the Southern and Eastern Districts of New York in 1999. He graduated from the College of the Holy Cross with a B.A. degree in 1993 and received a J.D. degree from Brooklyn Law School in 1997. While in law school, he interned at the New York State Attorney General, Investor Protection and Securities Bureau. Since graduating

law school, Mr. Curley has practiced primarily in the area of securities fraud class action litigation. He is a member of the Association of the Bar of the City of New York and the American Bar Association.

**LLOYD M. DONDEERS** was admitted to the bar of the State of New York in 2002 and the United States District Court for the Southern District of New York and the Eastern District of New York in 2004. He graduated from State University of New York at Binghamton with a B.S. degree in Management and a concentration in Management Information Systems in 1995 and received a J.D. degree from Brooklyn Law School in 1999. He is a member of the New York State Bar Association's Business Law Section's Committee on Securities Regulation. Mr. Donders has experience in the area of Medicaid pharmaceutical litigation.

**THOMAS J. KENNEDY** was admitted to the New York bar and the bars of the United States District Courts for the Southern and Eastern Districts of New York in 1996. He received a J. D. degree in 1995 from St. John's University School of Law and a B.S. in Accounting from Miami University in 1992. Mr. Kennedy passed the CPA exam in 1998.

**CHRISTOPHER S. HINTON** an associate of the firm, is admitted to the bars of the State of New York, the United States District Court for the Southern District Court of New York and the United States District Court for the Eastern District of Wisconsin. He received a B.A. degree in Economics and Political Science in 1997, *magna cum laude*, from Marquette University, where he was elected to Phi Beta Kappa, and received a J.D. degree, *cum laude*, from University of Illinois College of Law at Champaign in 2002. His primary area of practice is securities and ERISA class action litigation. He co-authored *Foreign Investors Serving as Lead Plaintiffs in U.S.-Based Securities Cases*, International Practice Section Newsletter (Association of Trial Lawyers of America, Washington, D.C.), Winter 2004 and Spring 2005. Mr. Hinton has been a member of the plaintiffs' bar since 2003 and has focused on class action litigation.